

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

HELAYNE SEIDMAN

Plaintiff,

- against -

THE E.W. SCRIPPS COMPANY

Defendant.

Docket No. 1:17-cv-7484

JURY TRIAL DEMANDED

**COMPLAINT**

Plaintiff Helayne Seidman (“Seidman” or “Plaintiff”) by and through her undersigned counsel, as and for her Complaint against Defendant The E.W. Scripps Company (“EW”) hereby alleges as follows:

**NATURE OF THE ACTION**

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and public display of two copyrighted photographs of high wires in the sky that helps the Orthodox Jewish community go about their routines during Sabbath, owned and registered by Seidman, a professional photographer. Accordingly, Seidman seeks injunctive and monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq.*

**JURISDICTION AND VENUE**

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. Upon information and belief, this Court has personal jurisdiction over Defendant because Defendant resides in and/or transacts business in New York.

4. Upon information and belief, venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

### **PARTIES**

5. Seidman is a professional photographer in the business of licensing her photographs to online and print media for a fee having a usual place of business at 16 St. Marks Place, Apt. 4B, New York, New York 10003.

6. Upon information and belief, EW is a domestic business corporation duly organized and existing under the laws of the State of the Delaware, with a place of business at 1180 6<sup>th</sup> Avenue, New York, New York, 10036. At all times material hereto, EW has owned and operated the website: www.Cracked.com (the “Website”).

### **STATEMENT OF FACTS**

#### **A. Background and Plaintiff’s Ownership of the Photographs**

7. Seidman photographed high wires in the sky that helps the Orthodox Jewish community go about their routines during Sabbath (the “Photographs”). A true and correct copy of the Photographs is attached hereto as Exhibit A.

8. Seidman is the author of the Photographs and has at all times been the sole owner of all right, title and interest in and to the Photographs, including the copyright thereto.

9. The Photographs were registered with United States Copyright Office and were given Copyright Registration Number VA 2-035-320.

#### **B. Defendant’s Infringing Activities**

10. Upon information and belief, on September 27, 2017, EW ran an article on the Website entitled *5 Hilariously Weird Ways People Used Religious Loopholes*. See [http://www.cracked.com/article\\_25111\\_5-hilariously-weird-ways-people-used-religious-loopholes.html](http://www.cracked.com/article_25111_5-hilariously-weird-ways-people-used-religious-loopholes.html). The article prominently featured the Photographs on the Website. A true and correct copy of the article is attached hereto as Exhibit B.

11. EW did not license the Photographs from Plaintiff for its article, nor did EW have Plaintiff's permission or consent to publish the Photographs on its Website.

**CLAIM FOR RELIEF**  
**(COPYRIGHT INFRINGEMENT AGAINST EW)**  
**(17 U.S.C. §§ 106, 501)**

12. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-11 above.

13. EW infringed Plaintiff's copyright in the Photographs by reproducing and publicly displaying the the Photographs on the Website. EW is not, and has never been, licensed or otherwise authorized to reproduce, publically display, distribute and/or use the Photographs.

14. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

15. Upon information and belief, the foregoing acts of infringement by EW have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

16. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and Defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

17. Alternatively, Plaintiff is entitled to statutory damages up to \$150,000 per work infringed for Defendant's willful infringement of the Photographs, pursuant to 17 U.S.C. § 504(c).

18. Plaintiff further is entitled to her attorney's fees and full costs pursuant to 17 U.S.C. § 505.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant EW be adjudged to have infringed upon Plaintiff's copyrights in the Photographs in violation of 17 U.S.C §§ 106 and 501;
2. That, with regard to the First Claim for Relief, Plaintiff be awarded either: a) Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs; or b) alternatively, statutory damages of up to \$150,000 per copyrighted work infringed pursuant to 17 U.S.C. § 504;
3. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
4. That Plaintiff be awarded her costs, expenses and attorneys' fees pursuant to 17 U.S.C. § 505;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

### **DEMAND FOR JURY TRIAL**

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York  
September 29, 2017

LIEBOWITZ LAW FIRM, PLLC

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